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# In The
# Supreme Court of the United States

OCTOBER TERM, 2008

DAVID D. ASLANI,
PETITIONER,

V.

PEOPLE OF THE STATE OF MICHIGAN,
RESPONDENT.

## ON PETITION FOR A WRIT OF CERTIORARI TO THE MICHIGAN SUPREME COURT

## PETITIONER FOR A WRIT OF CERTIORARI

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THE PETITIONER HEREIN IS PROCEEDING PRO SE.

## QUESTION PRESENTED FOR REVIEW

Whether the Michigan Supreme Court did err in denying the Petitioner's rights when it in denying his meritorious appeal let stand the intentionally unconstitutional denial of his right to a final written order by the trial court, whereas the Fourteenth Amendment to the federal Constitution prohibits Michigan state courts from depriving the Petitioner of his right under the "due process of law," and whereas the Petitioner's right under the Fourth, the Fifth, the Sixth, the Seventh, the Eighth and the Fourteenth Amendments to the federal Constitution and under various international treaties and principles and laws, such as the Universal Declaration of Human Rights, specifically under the Preamble and Articles 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 17, and 18 of the said Declaration, and the Convention against Torture and Other Cruel,

Inhuman or Degrading Treatment or Punishment, specifically under its Articles 1, 2, 4, 5, 10, 11, 12, 13, 14 and 16, and the unequivocal Declaration of a United Nations Committee that the utilization of "Taser electronic guns are a form of torture" have all been contravened, and whereas in light of various jaw-dropping violations of the Petitioner's guaranteed rights, as the citizen of the State of Michigan and the United States, the Michigan court of last resort intentionally unlawfully failed to accord him an appellate opportunity to establish his innocence, and thereby it has sanctioned a chilling departure from the accepted and usual course of justice.

## Parties Below

The only parties to this proceeding in the courts below are the Petitioner David D. Aslani and the Respondent People of the State of Michigan that have been properly referenced in the caption of this petition.

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APPLICATION NO. 08A73

# In The
# Supreme Court of the United States

OCTOBER TERM, 2008

DAVID D. ASLANI,
PETITIONER,

V.

PEOPLE OF THE STATE OF MICHIGAN,
RESPONDENT.

## PETITION FOR A WRIT OF CERTIORARI

The Petitioner respectfully avers that this Court grant him his petition for a writ of certiorari, as the Michigan Supreme Court has turned a proverbial judicial blind eye on the repugnantly unconstitutional contravention of the Petitioner's guaranteed rights under the national and international laws.

The case at hand is an alarming testament to the irrefutable verity that it is not only at Guantánamo Bay that the federal Constitution is

being trashed, but also in the heartland of America, specifically in the state courts of Michigan, that the federal Constitution is being trashed, as well, big time, and that against all norms of human decency and contravention of the national and the international laws, the grotesque tortures of this Petitioner, who has been an innocent American citizen, has taken place at the hands of the genuine red-white-and-blue American culprits, and to make it even more outrageous, the Michigan state courts unconscionably, cunningly, cowardly and corruptly have covered up various monstrous crimes that had been perpetrated on the Petitioner.

Even more shocking is the fact that in the heartland of America the medical doctors and nurses have personally aided and abetted the agents of the state to subject the Petitioner to the scandalously SAVAK-style barbarity and savagery, to wit,

grotesque tortures, which is a means for intentional dehumanization, to be consistent with the monstrous tradition of naked barbarism that has seized this country in its chillingly crushing clutch.

To be sure, the Michigan court of last resort in the case at bar intentionally unconstitutionally and dishonorably has failed to preserve the integrity and the independence of our judiciary, which has meant to be the crown jewel of all of our institutions and the source of pride for every decent, law-abiding and justice-conscious citizen of this glorious nation.

## ORDERS BELOW

The order of the Michigan Supreme Court, entered on April 28, 2008, denying the Petitioner's meritorious application for leave to appeal the October 18, 2007, order of the Michigan Court of Appeals, dismissing his application and his motion to compel, is set forth in **APPENDIX A.**

The order of the Michigan Court of Appeals, entered on December 19, 2007, denying the Petitioner's meritorious motion for reconsideration, is set forth in APPENDIX B.

The order of the Michigan Court of Appeals, entered on October 18, 2007, dismissing the Petitioner's meritorious application for leave to appeal and also dismissing his simultaneously-filed motion to compel, is set forth in APPENDIX C.

## BASIS FOR JURISDICTION IN THIS COURT

The Order sought to be reviewed is that of the Michigan Supreme Court in the case entitled *People of the State of Michigan v. David D. Aslani*, under Docket No. 135824.

The said order was entered on April 28, 2008, by the said state court of last resort.

On July 24, 2008, in its granting the Petitioner his application for an extension of time to

file a *Petition for a Writ of Certiorari*, this Court extended the time to September 25, 2008. Thereby, the jurisdiction of this Court is invoked pursuant to Title 28, U.S.C. § 1257(3), as the issue raised herein is that of a denial by the State of an established right conferred upon the Petitioner by the federal Constitution.

## CONSTITUTIONAL PROVISIONS AND TREATIES INVOLVED

**AMENDMENT IV** to the United States Constitution is set forth in **APPENDIX D.**

**AMENDMENT V** to the United States Constitution is set forth in **APPENDIX E.**

**AMENDMENT VI** to the United States Constitution is set forth in **APPENDIX F.**

**AMENDMENT VII** to the United States Constitution is set forth in **APPENDIX G.**

**AMENDMENT VIII** to the United States Constitution is set forth in **APPENDIX H.**

**SECTION 1 OF AMENDMENT XIV** to the United States Constitution is set forth in **APPENDIX I.**

**UNIVERSAL DECLARATION OF HUMAN RIGHTS,** of which the United States has been a signatory, its **Preamble** and **Articles 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 17, and 18 of the said Declaration** are set forth in **APPENDIX J.**

**CONVENTION AGAINST TORTURE and Other Cruel, Inhuman or Degrading Treatment or Punishment,** which specifically has been made in light of a **"declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,"** of which the United States has become a signatory, and under which a host of the irrefutable rights of the Petitioner egregiously have

been breached, as the government agents of this country have offensively contravened the Petitioner's established rights under the said Convention, specifically under its **Articles 1, 2, 4, 5, 10, 11, 12, 13, 14 and 16**; the said Convention and its pertinent Articles are set forth in **APPENDIX K.**

## STATEMENT OF THE CASE

The Petitioner's trial and tribulation and torment commenced on April Fools' Day of 2005, the day that has become the cruelest day in his life.

The Petitioner had purchased a valid Detroit-Lansing round-trip bus ticket from Greyhound Lines, Inc. (hereinafter "Greyhound"), and thereby he had the right to peacefully ride that bus from the Greyhound bus terminal in Lansing, Michigan, back to his original point of departure in Detroit, Michigan. The Petitioner also desperately needed to get his blood pressure medicine from his spouse, who

had been waiting for him at the Greyhound bus terminal in Detroit.

Prior to his boarding the Greyhound bus, in light of the fact that its driver had advised that he was only taking passengers whose destinations were beyond Detroit, the Petitioner approached him, and while showing him his valid ticket advised him that due to his desperate and urgent need to get his blood pressure medication—which his spouse had brought for him to the Greyhound bus terminal in Detroit—he was willing to take his place even in the aisle or on the step of the bus if no seat was available for him, as in the past the drivers of the Greyhound buses had accommodated passengers due to stormy weather or other emergencies, and thereby had permitted them to sit in the aisle or even to squeeze themselves between other passengers on the seats.

One of the responsibilities of the Greyhound bus driver was to confirm that the Petitioner's ticket was valid, and he did confirm its validity upon his reviewing it.

While the bus driver was busy with luggage and other passengers, the Petitioner boarded the Greyhound bus and easily found an empty seat. Few minutes later two officers from the Lansing Police Department boarded the bus, and after racially profiling him out from all of the other passengers, approached him and advised him with hostility, anger and disrespect that he had to get off the bus immediately, otherwise he would be arrested for trespassing.

Presuming that there might have been a misunderstanding, the Petitioner explained to the said police officers that he possessed a valid ticket, and showed it to them, and also reiterated his

suffering from high blood pressure and thereby his pressing need to return to the Greyhound bus terminal in Detroit, where his spouse was awaiting him with his blood pressure medication.

The aforementioned police officers, however, advised the Petitioner with deep-rooted animus that if he would argue any further with them and would decline to get off the bus immediately, he would be arrested on the spot for trespassing and again in a threatening manner ordered him to get off the bus or they would arrest him.

Even though the Petitioner unlawfully was compelled to relinquish his right as the Greyhound's bus passenger, and thereby he got off the bus, shortly thereafter he was subjected to racial slurs and epithets for fornication against Arabs by the security officers of Capital Area Transportation Authority (hereinafter "CATA") and by the said police officers,

themselves, and he was ordered to leave the area by the said police officers and the CATA's security officers in a very hostile and denigrating and insulting manner. Subsequently, the Petitioner was viciously subjected to physical and verbal abuses and unlawfully was arrested and later on was falsely charged with one count of trespassing.

Afterwards the Petitioner was subjected to monstrous mistreatments in the form of brutal beatings, terrorizing Tasering, and yes, terrifying and grotesque torture, with such intense cruelty, savagery, violence and atrocity that only some atrocious people of the Dark Ages would resort to their extent of repugnancy. Customarily, such detestable ill-treatments are not expected to come to light in a geography through whose persona one rationally would expect that there is adequate breathing space for such refined characteristics as

nobility, honor, integrity, dignity, and sheer concern for human sensibility and humanity as a whole. The very nature of such breathtaking monstrosity, which the Petitioner has been subjected to, is subversive to the fundamental values that are quintessentially American, and thereby it diminishes the rights of every American (APPENDICES D, H, I, J & K).

The Petitioner was subjected to racial profiling and disparate treatments on account of his being perceived and thereby identified as an Arab and then as an Iranian, interchangeably, and on account of his religious affiliation, being Islam. The Petitioner was subjected to maligning profanity and slurs and was addressed as a "fuckin[g] Arab" and a "fuckin[g] Iranian," and a "fuckin[g] Moslem" (APPENDIX I & J). The Holy Qor'an in his possession was desecrated. (It is of note that many people in this country do not make any distinction among Arabs

and Iranians and/or Muslims; in fact, the Arabs and the Iranians at times are characterized and referenced in derogatory terms, indistinguishably, as sand niggers, camel jockeys, rag heads and the like.)

The Petitioner's hellish and false imprisonment and the deprivation of his liberty, subsequent to his false arrest, and his Kafkaesque terrorization took place in the course of about eight hours in a police vehicle, the parking lot of Sparrow Hospital in Lansing, Michigan, and within the hospital itself, particularly its room number four, which turned out to be the "torture chamber" for him, and the jail.

To be sure, what the Petitioner has been subjected to is shocking to conscience. The injuries and the pain and the suffering that have been inflicted upon the Petitioner's body and psyche, as the result of assault, battery, grotesque tortures,

including medical tortures, intentional infliction of emotional distress, and malicious prosecution, if not outright persecution, that he has been subjected to, not only are absolutely un-American, but also because of their repugnant nature are utterly impermissible in any civilized society.

On April 1, 2005, while the Petitioner was following the orders of the police officers to the letter to leave the premises, they, without just cause or provocation or warning and with terrific force and shocking violence brutally seized and laid hold of him. While the Petitioner was attempting to recover from the shock from the said onslaught, causing him to scream out of severe pain and suffering and to wet himself and to blackout, he was handcuffed so tightly that the handcuffs cut into his flesh causing him additional agonizing pain and suffering, to which the said officers were deliberately indifferent.

From the time when the Petitioner was beaten up by the said police officers at the Greyhound bus terminal, he was continuously complaining of suffering from severe pain in his neck and his back, and had repeatedly made requests for medical treatment. Eventually the Petitioner was taken to the parking lot of Sparrow Hospital where he was subjected to malicious racial slurs and brutal violence by the police officer and one of the hospital's security officers, who, after subjecting him to racio-ethnical profanity and a severe beating, along with the police officer, dragged him out of the police vehicle, causing him numbing pain and suffering, and then threw him into a wheelchair and continued to subject him to additional beating and profanity.

Both of the said officers conducted themselves as a ruthless gang of two who in concert were inflicting severe injuries on the Petitioner, causing

him agonizing pain, so much so that he blacked out. The Petitioner's hands were kept handcuffed in back of him, making him feel terrifyingly vulnerable. At one point when the Petitioner out of unbearable pain and suffering was screaming at the top of his lungs, the hospital's security officer squeezed his lower jaw, attempting to break it, causing him so much excruciating pain that he fainted and had to wet himself again.

Moreover, among various injuries that these officers inflicted on the Petitioner, as the direct result of their punching him on his chest, they caused severe injury to his sternum, as well, which later on because of persistent pain required a very painful xiphoidectomy.

It is of note that before the Petitioner was wheeled into the hospital from its parking lot, as the result of the sustained trauma his left leg went into

an excruciating cramp, and thereby he was unable to lift his foot off the ground, which was hitting the ground sending shock waves of tremendous pain into his injured back; the combination of the force being exerted on the wheelchair by the security officer and the intensity of the cramp in his left leg was so pronounced that the leather of his left shoe as the result of its friction with the ground was badly scraped. The security guard refused to pull his wheelchair from the back in order to prevent the Petitioner's left leg from hitting the ground, causing him to scream in pain as loudly as he could, despite the muzzle that he had put on the Petitioner's mouth to silence him. At the hospital after the Petitioner's shoes were taken off, the police officer examined his ruined shoe with interest and made the remark that the Petitioner "must be a fuckin[g] rich Arab."

At the said hospital, one of its doctors, in response to the Petitioner's vociferous and repeated protestations to various medical mistreatments in light of his allergic reaction to various medications and his suffering from such illnesses as polyneuropathy and having a very low threshold of tolerance for pain, to his shock and incredulity, advised him that since the Petitioner had been "under the custody and control of the police officers," he thereby would follow "only their orders," and thereafter he outrageously went ahead and followed their orders and thereby subjected the Petitioner to an agonizing torture of catheterization, causing him excruciating pain and bleeding even months thereafter.

In addition, despite the Petitioner's vociferous objections, he was administered Haldol, which is known as "medical torture," which is in absolute

violation of the Hippocratic Oath, the ethical standard of do no harm, and the policy of any hospital vis-à-vis the medical treatment of any of its patients (APPENDICES H & K).

All along, the said agents of the hospital remained deliberately indifferent towards the Petitioner's serious medical needs, and instead subjected him to the said agonizing tortures, and treated him in a dehumanizing and degrading fashion.

In addition, Sparrow Hospital billed the Petitioner for $5,389.88, as its "medical bill" for literally and monstrously tormenting him, and later on submitted its said bill to the collection agencies in order to harass him and also to cause him additional humiliation and to maliciously damage his credit worthiness.

At one point while the Petitioner was in the torture chamber, the police officers jumped all over him because he had screamed out loud for help out of the terrifying horror to be tortured again, and after the said police officers had beaten him up and subjected him to further verbal and physical abuses, and after they had thrown him down on the floor, and then holding him upside-down, and had torn open his trouser on his left leg and after he had been targeted by a Taser electronic stun gun with full charge directly and repeatedly to his bare calf for maximum impact, causing him to howl akin to a wounded animal in intolerable agony, and while he was begging them to finish him off in order to stop further murderous tortures, and while the said officers were amused, one of them demanded from the Petitioner to "pray now," after addressing him as a "fuckin[g] Moslem." In the course of these

monstrous acts the Petitioner had to wet himself and passed out.

In light of the intentionally unlawful deprivation of the Petitioner's liberty and freedom, compounded by repeated beatings, excessively forceful handcuffing, painful restraining on a gurney, mind-numbing torments, including terrorizing him with medical and psychological tortures, Tasering him repeatedly with reckless endangerment and repeated attempts being made on him to just murder him out of the deep-rooted animus and discrimination against him relative to his perceived race, color, ethnicity, alienage, ancestry, religious affiliation, and national origin, and thereby the Petitioner has been rendered as a victim of a hate crime, among other heinous crimes, which almost resulted in his death.

It is noteworthy that as the part of the cover-up for the heinous crimes perpetrated on the Petitioner, both at the Greyhound bus terminal and the torture chamber at the hospital, the surveillance cameras intentionally were turned off in order to prevent any documentary recording of such crimes.

To be sure, the outlaw conducts of the said police officers and the agents of the said hospital were monstrous and barbarous and inhumane in character, and were akin to what the nefarious SAVAK used to utilize in degradation and dehumanization and brutalization of Persians by arresting/kidnapping, imprisoning, raping, torturing and/or murdering them, among many other heinous crimes that mischievously and systematically were perpetrated against thousands and thousands of Persians. The brutality of the said culprits against the Petitioner and the outlaw orders that have been

generated relative to his substantive and guaranteed rights in rigged proceedings that the Petitioner has been subjected to alarmingly reminds him that the brutal culture of SAVAK—the embodiment of the law of the jungle and the American terrorism machinery—is still alive and kicking in this country that asserts itself to be a nation of law—evidenced by what the American perpetrators cowardly and criminally have done to the Petitioner under the color of law.

The numbing pain and painful suffering, which the Petitioner was subjected to, have been manifold, much of which he has yet to recuperate from. To be sure, as a direct and proximate result of the false imprisonment and restraint and detention and being subjected to horrific physical and psychological abuses, the Petitioner has been suffering, inter alia, from mental anxiety, post-

traumatic stress disorder, chronic depression, repeated nightmares, irritability, phobias, sleep apnea, deterioration of his gums and his dental hygiene, considerable and constant pain in his sternum that had resulted in a surgical operation for xiphoidectomy, sharp pain in his jaw, caused from extremely painful protective muscle spasms in the area of his temporomandibular joint—causing him his inability to hardly open his mouth, accompanied with excruciating pain, and compelling him to eat his food from a straw for more than a year and also causing the deterioration of his dental hygiene and gums—painful carpal tunnel syndrome as the result of severe trauma to his wrists, painful spasms in his left leg and kneecap, aggravated pain in his neck, back and lower back, and suffering from injuries to his good name, reputation, honor, dignity and integrity.

Amazingly, as part of the cover-up for the barbarous ill-treatments that the Petitioner has been subjected to, in addition to trespassing he was charged with certain other trumped-up crimes. It is of note that at one point in the hospital when the Petitioner was coming to, he overheard a conversation between two police officers, one of whom in response to the inquiry of the other as to what the Petitioner had committed advised him: "Nothing." And then the other officer advised the first with the following: "Fuck him, charge him with some crimes. Use your head." And thus charge the Petitioner maliciously and falsely they did!

On April 25, 2005, the day of the Petitioner's preliminary examination, prior to the hearing the Petitioner was advised by the prosecution that should he accept an offered guilty plea for a simple misdemeanor for trespassing, any other alleged

charges would be dropped against him, and that since he did not accept such an offer, because he emphatically believed and still holds the same conviction that he did not commit any wrong, and thereby he exercised his constitutionally guaranteed right in refusing to accept such a wrongful offer—which essentially amounted to incriminating himself for a wrong that he had not committed—immediately thereafter the prosecution unlawfully added additional false charges to the prior calumnious ones against him.

Incredibly, eventually the Petitioner had to face certain fabricated charges that included two counts of resisting and obstructing an officer, one count of assault and battery and one count of trespass allegedly arising from the said incident at the Greyhound bus terminal.

On the said date the Petitioner was bound over to the Michigan Ingham County Circuit Court, and the case was assigned to Judge Beverley Nettles-Nickerson.[1] Subsequent to the Petitioner's hiring the services of private attorneys, and filing a number of meritorious motions which were unlawfully denied, the Petitioner was denied reasonable assistance, including investigative assistance that was necessary in order to find the material witnesses, such as res gestae witnesses, in his favor in violation of his right under the Sixth Amendment (APPENDIX F). The Petitioner was also denied his repeated requests for production of all of the

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[1] It is of note that on June 13, 2008, the Michigan Supreme Court unanimously removed Judge Nettles-Nickerson, ruling that she "recklessly flaunted her judicial office." This is the judge of whom the Michigan Judicial Tenure Commission executive director Paul Fisher said the following: "She has disgraced the robe she wears and greatly damaged the public's perception of all judges everywhere. In view of her conduct, it is not possible for her to remain a judge."

surveillance video recordings, photos, et cetera, that had been produced at the Greyhound bus terminal, the CATA station and Sparrow Hospital (APPENDIX F).

At the September 18, 2006, court hearing, after the trial court unlawfully had denied the Petitioner's various meritorious written and oral motions from the bench, he, by and through his attorney, was made an offer for a nolo contendere plea that under the attendant circumstances he could not refuse. The said offer consisted of the following: the dismissal of all the alleged charges against him in their entirety with prejudice if he pleaded nolo contendere to only two misdemeanors, one for alleged trespassing and the other for an alleged attempt to resist and obstruct, and if he was willing to be sentenced with a fine of no more than $200.00. In addition, the trial court had assured the

Petitioner that it would make null and void an order that unbeknownst to him unlawfully had prohibited him from carrying firearms that had been entered against him without any legal justification and spitefully by the lower court and without according him a hearing. (It is of note that throughout his life the Petitioner never had any desire to have possession of a gun!)

Furthermore, the trial court in accepting the Petitioner's proposed condition assured him—through his counsel—that he could make an appeal from the said accepted offer for the said nolo misdemeanors and a $200.00 fine and also from any other orders, particularly the order denying his motion to dismiss.

Under the advice received from his counsel, the Petitioner's understanding was that his acceptance of the offered nolo contendere plea meant

that he was not contending the offered two misdemeanors, and thereby it did not mean that the Petitioner was admitting in any way that he had been guilty of committing either of them, as he had been absolutely innocent. In fact, at the first moment of having an opportunity to speak on the record, the Petitioner advised the trial court that the entire charges against him had been nothing but **"a pack of lies."**

It is interesting to note that the judicial system did not overlook Judge Nettles-Nickerson's failure to pay her gas bill in the amount of $3.00. However, the same system curiously totally ignored the larceny and the damages to the Petitioner's personal items that amounted to at least six hundred times more than this judge's said unpaid gas bill! [2]

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[2] It is of note that while the Petitioner was in the custody and control of the Lansing Police Officers his funds in

This is a minute testament as to how selective and discriminatory the Michigan judiciary is towards people's rights!

The Petitioner all along steadfastly had maintained that he had been absolutely innocent of each and all of the false charges that had been brought against him, but to no avail. Being a victim of, inter alia, various heinous crimes, including reckless endangerment, attempted murder, repeated grotesque tortures, and obstruction of justice, the Petitioner under undue pressure reluctantly accepted the said offered **nolo plea** on a number of grounds, paramount significant among which were

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the sum of $450.00 and a pair of his gloves disappeared; these stolen items along with the damages to his personal items amounted to about $1,840.00, which was completely ignored by the Michigan courts. However, one of the charges that was brought against Judge Nettles-Nickerson was relative to her using her judicial position in attempting to bully a gas station owner while refusing to pay him $3.00 worth of gas that she had pumped.

his ill-health and lack of any trust in the trial court that justice would prevail in the said court.

In addition, the Petitioner's attorney alarmingly advised him that should he decide to refuse the said offer and opt for going to trial, he would certainly lose and land himself in jail, as the system was determined to get him. Moreover, the Petitioner surmised that it would be the beginning of the end of this ongoing nightmarish scenario of injustice once he had been granted an opportunity to prosecute his appeal.

As the events unfolded, however, the Petitioner realized that his said assumption had been utterly erroneous. To be sure, the Petitioner still had to face obstruction of justice against him, while he was not accorded even a comma of his established rights. It goes without saying that the proceedings relative to his case at various levels of

the Michigan courts have been akin to those of a kangaroo court.

The case in point, to perfect and prosecute his appeal, subsequent to the September 16, 2006, hearing, the Petitioner made numerous and arduous efforts to obtain a copy of his trial court record on file, however, to no avail, and thereby he was denied his right to a copy of the register of actions and the final order, which according to the clerk of the trial court constituted a "$200.00 sentence," among other orders that unlawfully had been entered by the trial court against him.

The Petitioner also made numerous communications on the phone with various members of the trial court's personnel in his attempts to obtain a copy of his concerned transcript. Out of frustration the Petitioner even wrote two certified letters, addressed to Judge William A. Collette, the Chief

Judge of the Ingham County Circuit Court, requesting his assistance for obtaining the above-indicated items. Alas, to date of this filing the Petitioner has not been in receipt of any response from the said chief judge to his said letters, one of which had presented the said judge with a brief chronicle of some of the events with the pertinent attachments, documenting as to how the Petitioner had been denied his established rights, particularly those guaranteed under the due process of law.

Taking into consideration that Judge Nettles-Nickerson had been suspended by the Michigan Supreme Court due to her allegedly being in various violations on and off the bench, including deception, committing perjury, fabrication of evidence and playing the race card, and thereby her judicial caseload was being handled by Judge Thomas Brown, the Petitioner, through a certified letter,

made a request from him to see to it that the said items be made available to the Petitioner as soon as possible. Again, disappointingly he, as did Judge Collette, treated the Petitioner's said request with deafening silence.

Such an unlawful denial of the Petitioner's established right became formally crystal clear on August 8, 2007, when right at the commencement of the hearing for his Motion to Compel, Judge Brown treated him with deep-rooted animus, insults and denigration and degradation, and capriciously had him detained simply because he had filed his said motion to compel and he had exercised his constitutional right to speak to the concerned issues, causing him the reopening of his physical as well as his psychological wounds.

In fact, because of the Petitioner's being roughly handled by the court officers and his

stumbling because one of them grabbed his walking cane from him that he needed for ambulation, as he had been suffering from lack of balance problems, he inevitably experienced genuine aggravation of his injuries in his lower jaw, neck, back, chest, wrists, leg and knee causing excruciating pain for him, particularly in light of the fact that he had just gone through a surgical operation for xiphoidectomy the prior week—due to sustaining injuries to his xiphoid as the result of his being beaten up by one of the police officers and the security agent of the hospital—and thus he had to be hospitalized again, this time for inflammation of his chest wound and to determine whether the stitches in his chest were still in place and had to be closely monitored for his experiencing an intolerable pain in his chest that had elevated his blood pressure to a dangerous level. The Petitioner was diagnosed with costo chondritis.

This incident unnecessarily prolonged his pain and suffering and required additional need for strong medicine such as Oxycodone-Apap 7.5/325 mg, and thereby caused further delay in his recuperation and healing process.

Be that as it may, at the end of the August 8, 2007, hearing, Judge Brown arbitrarily and unlawfully denied the Petitioner's request and right to a copy of his court record on file, including a copy of a register of actions, the court scheduling order, and specifically the final order; he failed to provide any explanation for his highly unlawful conduct and his outlaw ruling from the bench.

It is of note that it was after 293 days of intentional delay and after various complaints and communications relative to this matter that had been made by the Petitioner with the court reporter, herself, and others, including judges at the Michigan

trial court, who did nothing to assist him, that the court reporter finally provided him with the transcript of the September 18, 2006, hearing, in the course of which the trial court had entered its final order for a $200.00 sentence and other orders from the bench. However, the said transcript not only was provided to the Petitioner intentionally 293 days dilatorily, but also had failed to constitute a verbatim recording of the said hearing in violation of MCR 8.108(B), and thereby it has caused further denial of his established rights, inter alia, under the due process of law and equal protection clauses of the Fourteenth Amendment in perfecting and prosecuting his meritorious appeal in order to establish his innocence (APPENDIX I & J).

It is of further note that on September 26, 2007, the Petitioner, acting pro se, properly and timely filed his "*Application for Leave to Appeal*," and

his "*Motion to Compel the Trial Court to Provide Him with a Copy of His Court Record on File and also to Compel the Court Reporter to Provide Him with the Transcript of the Verbatim Record of the September 18, 2006, Hearing Proceeding,*" and his "*Brief in Support of His Motion*" in the Michigan Court of Appeals.

On October 18, 2007, through his order the Chief Judge of that court, William C. Whitbeck, capriciously dismissed the said Petitioner's *application and motion* "for lack of jurisdiction because the lower court has not entered an order for which defendant can appeal" and thereby totally failed to take into his judicial consideration the Petitioner's motion to compel, which had explained and documented in detail the irrefutable fact that the trial court on August 8, 2007, adamantly and even formally in open court had denied the

Petitioner's right to be provided with a copy of its final order (APPENDIX C).

According to the order of the Michigan Court of Appeals, in its inquiry from the Ingham County Circuit Court, it had been advised that "no order was entered requiring defendant to pay $200.00" at the trial court (APPENDIX C). Therefore, the said court intentionally ignored the documentary evidence in the form of the signature of Judge Collette on the back of a check, drawn on National City Bank of Michigan/Illinois, that had been issued by the 30th Circuit Court for the amount of $320.00 payable to the Petitioner as "BOND DISTRIBUTION," by printing his name in full, after that court had deducted $200.00 for fine, as the sentence, and $200.00 for costs and $80.00 for an unknown reason from the total amount of $800.00 that the Petitioner had paid as his bail bond. Even this fact had been

documented in the transcript of the September 18, 2006, hearing, as on the record the trial court specifically stated as follows: "The Court will enter a fine in the amount of $200.00; costs $200.00 for a total of $400.00. We will return the balance of the bond [which was $800.00] to Defendant."

Furthermore, once the Michigan Court of Appeals made an inquiry from the trial court about the Petitioner's payment of $200.00, it had exercised its jurisdiction over the trial court, and thereby it at least could have made further inquiry as to why no final order had been entered if such an allegation had been true. Therefore, such reasoning is not consistent with logic and law, which is the science of what is good and just. To be sure, the old maxim that "Nothing that is against reason is lawful," is quite applicable here.

Therefore, on November 8, 2007, the Petitioner, despite his ill health and thereby enduring considerable hardship, filed, again on his own behalf, a timely and properly prepared "*Motion for Reconsideration from a Highly Prejudicial and Erroneous Order Issued by This Court in Contravention of His Rights under, Inter Alia, the State and Federal Constitutional Laws and International Treaties and Laws*" in the Michigan Court of Appeals.

However, on December 19, 2007, a panel of that court through literally a rubber-stamped order denied the Petitioner's said meritorious motion for reconsideration (APPENDIX B). Such a highly unlawful denial under the appalling attendant circumstances in the case at bar and the gravity of the pertinent issues presented to that court for its judicial review is quite unconscionable and utterly

un-American, as such conduct would undermine the very essence of the American jurisprudence and the foundation of justice and the bedrock principle of the due process of law (APPENDICES I & J).

It is of note that the order of the Michigan Supreme Court, dated April 28, 2008, intentionally and unconstitutionally has denied the Petitioner his meritorious application for leave to appeal, which had been filed properly and timely in the said court of last resort on February 13, 2008.

The Petitioner asserts that the orders issued by the Michigan appellate courts in this action, as were the orders entered by the lower courts, are clearly erroneous and have definitely caused considerable material prejudice and injustice against him, as the Petitioner has been literally a victim of hate crimes and had narrowly escaped his death.

Indeed, the Michigan appellate courts' orders that unconstitutionally have denied the Petitioner's meritorious applications for leave to appeal have been made in clear contravention of various applicable Michigan court rules, statutes, and state and federal precedents.

Furthermore, in light of the unlawful conducts and orders of the trial court in particular, the unconscionable denial of the Petitioner's procedural and substantive rights has been offensive to the Michigan Constitution and the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment and the Fourteenth Amendment to the federal Constitution and international laws (APPENDICES D, E, F, G, H, I, J & K).

It is of further note that deliberately no opinion has been issued by the said state court of last

resort, or by the Michigan Court of Appeals. To be sure, in light of the various breathtaking violations of the Petitioner's rights, the conducts of the Michigan appellate courts under the disturbing attendant circumstances would amount to the dereliction of their judicial accountabilities in an incredible manner, unbecoming any adjudicator who has a grain of common decency and judicial integrity and a modicum of deference for the guaranteed constitutional rights of a citizen of this country, like the Petitioner, that has been subjected to nefarious monstrosities, including grotesque tortures and mind-numbing torments, that normally would take place in the land under the iron grip of tyrannical powers and barbarous and blood-thirsty rulers, whose respect for human rights and civil rights and simply the basic rights of a victim of various heinous

crimes, like the Petitioner, does not exceed that of a Neanderthal.

The issuance of the constitutionally infirm orders of the Michigan appellate courts amounts to Michigan appellate courts-speak—in other words, cover-up for the outlaw procedures and barbarous conducts that the Petitioner has been subjected to. The said courts completely circumvented the Petitioner's established rights by design; to be sure, they cowardly, cunningly, and unconstitutionally shepherded judicial corruption against the Petitioner! The dishonorable conducts of the referenced courts have made a shameful mockery of this country's most deeply valued right, to wit, the due process of law.

The Petitioner's federal civil rights that ensure and promise him of equal treatment embodied in federal, state and international laws

and established principles relative to, inter alia, discrimination, human rights, and grotesque tortures are not rendered as a meaningless guarantee for a victim of heinous crimes, like the Petitioner, that had been perceived to be Arab, Iranian (Persian), and/or Muslim.

The culprits outrageously have violated the Petitioner's federal civil rights under 42 U.S.C. § 1981, 42 U.S.C. § 1983, and 42 U.S.C. § 1985(3), as the result of their deep-rooted animus towards him—while their monstrous abuses have been scandalously defended and protected by the prosecution and eventually by the Michigan judiciary as a whole—and because of their perceptions of the Petitioner's color, ethnicity, alienage, ancestry, religious affiliation, and/or national origin, and because of their falsely identifying him, to wit, falsely racially profiling him as an Arab, they

violated his rights through, inter alia, his beatings, torturing, Tasering, and monstrous mental and physical and verbal abuses, and thereby deprived him of his civil rights guaranteed under the Fourth Amendment, the Eighth Amendment, and the Fourteenth Amendment, and the international treaties and principles such as: "Universal Declaration of Human Rights," as these culprits, in conspiracy with one another, grievously violated the Petitioner's established rights under the Preamble and Articles 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 17, and 18 of the said Declaration, and violated his rights under such international treaties as "Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," particularly under its Articles 1, 2, 4, 5, 10, 11, 12, 13, 14 and 16; moreover, the culprits violated his rights under the prohibition of torture through utilizing a Taser electronic gun on

him, and also tortured him through administering "Haldol," known as "medical torture," to him (APPENDICES D, F, H, I, J &K). Incredibly, but true, the culprits even intended to murder the Petitioner!

All along the Petitioner was facing a rigged judicial system in his home state. Was it any wonder that it turned a blind eye over all of the barbarically monstrous abuses and mistreatments that the Petitioner had been subjected to? After all, the Michigan judiciary, which in the most part, akin to many other institutions of this country, has been ruthlessly politicized to the point that it is indistinguishable from other predatory corporations that have crowded the landscapes of this glorious land.

However, the Petitioner will not remain silent, no matter how much the system will attempt to

muzzle him, until the judiciary rights the scandalous wrongs that have been visited on the Petitioner so monstrously and so barbarically and so wrongfully and so unconstitutionally.

The Petitioner holds the undying conviction that rather than cursing the darkness one has to reach out for the light, regardless of the consequences of such reaching. As the ancient Chinese proverb goes, "To know and not to do is not to know."

## REASONS FOR GRANTING A WRIT

The Petitioner avers that this Court should grant his petition for a writ of certiorari, particularly in light of the breathtaking breach of his national and international rights, his gut-wrenching ordeals, and on the grounds presented herein and the overarching egregious wrongs and the nightmarish

injustice that he so barbarously, so wrongfully and so unconstitutionally has been subjected to.

Whether the Michigan Supreme Court did err in denying the Petitioner's rights when it in denying his meritorious appeal let stand the intentionally unconstitutional denial of his right to a final written order by the trial court, whereas the Fourteenth Amendment to the federal Constitution prohibits Michigan state courts from depriving the Petitioner of his right under the "due process of law," and whereas the Petitioner's right under the Fourth, the Fifth, the Sixth, the Seventh, the Eighth and the Fourteenth Amendments to the federal Constitution and under various international treaties and principles and laws, such as the Universal Declaration of Human Rights, specifically under the Preamble and Articles 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 17, and 18 of the said Declaration, and the

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, specifically under its Articles 1, 2, 4, 5, 10, 11, 12, 13, 14 and 16, and the unequivocal Declaration of a United Nations Committee that the utilization of "Taser electronic guns are a form of torture" have all been contravened, and whereas in light of various jaw-dropping violations of the Petitioner's guaranteed rights, as the citizen of the State of Michigan and the United States, the Michigan court of last resort intentionally unlawfully failed to accord him an appellate opportunity to establish his innocence, and thereby it has sanctioned a chilling departure from the accepted and usual course of justice.

Indeed, the principle of due process has been reiterated in numerous decisions of this Court. Certainly, as an American citizen, the Petitioner is

absolutely entitled to his rights, guaranteed under the due process clause of the Fourteenth Amendment to the federal Constitution, which signifies fundamental fairness and substantial justice, of which the Petitioner has been utterly denied in the case at hand.

Certainly, the Michigan trial court denied the Petitioner of such irrefutable constitutional right unlawfully, wantonly, flagrantly, prejudicially, and with malicious intent and deep-rooted animus towards the Petitioner, as it even intentionally and oppressively denied him its final written sentencing order, and thereby it calculatedly denied him an opportunity to perfect and prosecute his appeal.

The Michigan state court of last resort was not interested in rerum causas cognoscere, nor was it concerned with the egregious denial of the Petitioner's substantive rights as to how he had been

nefariously "gulagged," and had been tortured SAVAK-style and even attempts had been made to murder him under the color of law, nor was it troubled by the fact that the culprits, who lacked any human decency, scandalously had violated the most fundamental standards under the American laws, both state and federal, and also the international laws. Even under the provision of the Magna Carta of 1215, it was mandated that "To no one will we sell, to no one deny or delay, right or justice."

Incredibly, the Petitioner had to face a rigged judicial system in Michigan whose judges, that had ruled in this case, lacked any conscience, which as Origen presciently has observed, "is the chamber of justice," and thereby the shocking-to-conscience monstrosities against the Petitioner were treated by them with deafening silence.

More than two hundred years ago, in the case of **Marbury v. Madison**, 1 Cranch 137, 163 (1803), Justice John Marshall quite presciently and eloquently observed the following about the essence of justice:

> The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of the government is to afford that protection.

It is of note that all of the charges against the Petitioner scandalously had been trumped up, despite the fact that courts are not established for the purpose of aiding wrong, deceit or fraud, as **Durant v. Durant** 20 Pa. D. & C.3d 515 Pa.Com.Pl. (1980), at 519, has opined that:

> "Courts are not established for the purposes of aiding fraud, deceit or wrong, but to prevent such things. . . ." **Margos v. Moroudas**, 184 Md. 362, 368, 370, 40 A.2d 816, 818, 819(1945).

Although judicial appeals are not constitutionally required, it does not mean that the State of Michigan is free of constitutional restraints in establishing the terms upon which appeals will be permitted; in fact, "the constitutional rights under due process clause is simply the right not to be denied for arbitrary or capricious reasons." **Griffin et al. v. Illinois**, 351 U.S. 12; 76 S.Ct. 585, 599; 100 L.Ed. 891 (1956).

No state may effectively abdicate its responsibilities under the Fourteenth Amendment by either ignoring them or by merely failing to discharge them, whatever the motive may be. **Burton v. Wilmington Parking Authority**, 365 U.S. 715; 81 S.Ct. 856, 861; 6 L.Ed. 2d 45 (1961).

The federal "constitutional guaranties of due process and equal protection both call for procedures in criminal trials which allow no invidious

discriminations between persons and different groups of persons. Both equal protection and due process emphasize the central aim of our entire judicial system—all people charged with crime must, so far as the law is concerned, 'stand on an equality before the bar of justice in every American court.' **Chambers v. Florida,** 309 U.S. 227, 241[; 60 S.Ct. 472; 84 L.Ed. 716 (1940)]. See also **Yick Wo v. Hopkins,** 118 U.S. 356, 369[; 6 S.Ct. 1064; 30 L.Ed. 220 (1938)]." **Griffin, supra,** at 589-590.

The Fourteenth Amendment was ordained to secure equal rights to all persons and to insure to all persons the enjoyment of such rights. **Ex parte Commonwealth of Virginia,** 100 U.S. 338, 340; 10 Otto 339; 1879 W.L. 16561 (U.S. Va.), 25 L.Ed. 676 (1879). To be sure, the attendant circumstances of each case govern the determination as to whether there has been denial of equal protection. U.S.C.A.

Const. Amend. 14: **Griffin v. County School Bd. of Prince Edward Co.**, 377 U.S. 218; 84 S.Ct. 1226, 1233; 12 L.Ed. 2d 256 (1964).

It has been an established principle that the objective of the equal protection clause "is not a disembodied equality," and that the "laws" referred to in the Fourteenth Amendment, enjoining "equal protection of the laws," are not "abstract propositions." **Griffin v. Illinois, supra**, at 592. "Equal protection of the laws" is not an abstract right, but is a command which the state must respect. **Hill v. State of Tex.**, 316 U.S. 400; 62 S.Ct. 1159, 1162; 86 L.Ed. 1559 (1942).

To be sure, the guarantee of the "equal protection of the laws" is a pledge of the protection of equal laws. **Skinner v. State of Okl. ex rel. Williamson**, 316 U.S. 535; 62 S.Ct. 1110, 1113; 86 L.Ed. 1655 (1942). Certainly, equal protection to all

is a basic principle upon which rests justice under the law. **Pierre v. State of La.**, 306 U.S. 354; 59 S.Ct. 536, 539; 83; L.Ed. 757 (1939).

Normally, for a judicial review, the record must show the rendition and entry in the lower court of an appealable judgment, decree, or order. To be sure, the general principle of federal appellate jurisdiction, derived from the common law and enacted by the First Congress, requires that review of nisi prius proceedings await their termination by final judgment. First Judiciary Act, §§ 21, 22, 25, 1 Stat. 73, 83, 84, 85 (1789); **McLish v. Roff**, 141 U.S. 661; 12 S.Ct. 118, 119; 35 L.Ed. 893(1891). This insistence on finality discourages undue litigiousness and leaden-footed administration of justice. **Cobbledick v. United States**, 309 U.S. 323, 324-326; 60 S.Ct. 540, 541-542; 87 L.Ed. 783 (1940); **Di**

**Bella v. U.S.**, 369 U.S. 121; 82 S.Ct. 654, 656-57; 7 L.Ed.2d 614 (1962).

The requirement of finality, to wit, the final judgment rule, "is the dominant rule in federal appellate practice." 6 Moore, Federal Practice (2d ed. 1953), 113. This is specifically true of criminal prosecutions. **Parr v. United States**, 351 U.S. 513, 518-521, 76 S.Ct. 912, 916-917, 100 L.Ed. 1377 (1956). Every statutory exception to this finality rule is addressed either in terms or by necessary operation solely to civil actions. **Di Bella v. U.S.**, 369 U.S. 121; 82 S.Ct. 654, 658; 7 L.Ed.2d 614 (1962).

The general review power of the Michigan state court of last resort is grounded in the Michigan Const. 1963, Art. 6, whose § 5 gives it "power to promulgate and implement rules of practice and procedure for Michigan courts," and under its § 4 that court "shall have general superintending control

over all courts; power to issue, hear and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court." **People v. Coles,** 417 Mich 523, 533-534; 339 NW2d 440 (1983).

Moreover, the Michigan Supreme Court has power under M.C.L. §§ 600.212-600.223; M.S.A. §§ 27A.212-27A.223, "which, *inter alia,* grant appellate jurisdiction over any matter or question of law brought before the Court in an authorized manner and grant the Court the power to promulgate and amend general court rules governing the practices and procedures in all courts of record. These rules may include practices and procedures for the method of review of decisions from inferior tribunals." **Coles, supra**, at 534.

Furthermore, the Michigan Supreme Court "has defined its authority, as permitted by the

foregoing constitutional and statutory provisions, to include the power to:

> **"Give any judgment and make any order which ought to have been given or made, and make such other and further orders and grant such relief as the case may require."** GCR 1963, 865.1(7). [Emphasis supplied. **Coles**, at 534.]

Therefore, the Michigan court of last resort, having a broad jurisdiction and far-reaching powers in the area of appellate review, easily could have utilized such an encompassing power, and in the interest of serving the ends of justice it could have granted the Petitioner's application and motion to compel.[3] Moreover, the Michigan state court of last resort, in violation of the mandates of the Michigan court rules, that itself has promulgated, to wit, MCR

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[3] It is of note that the jurisdictional power of the Michigan Court of Appeals is statutory and is conferred by M.C.L. § 600.308; M.S.A. § 27A.308. **Coles, supra**, at 535.

6.427, MCR 7.203(B)(1) and MCR 8.108 (B), and the mandate of the Article 1, § 20 of the Michigan Constitution, denied the Petitioner his right to prosecute his appeal.[4]

Although being mindful of the fact that Const. 1963, Art. 6, § 5 gives the Michigan Supreme Court the power to promulgate and implement rules of practice and procedure for Michigan courts and "shall have general superintending control over all courts. . .," **Coles, supra**, at 534, the Michigan highest court, however, while knowing that the trial

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[4] MCR 6.427 mandates that "within 7 days after sentencing, the court must date and sign a written judgment of sentence. . . ." MCR 7.203 (B)(1) mandates that "the court may grant leave to appeal from a judgment or order of the circuit court. . . which is not a final judgment appealable of right." MCR 8.108 (B) mandates that "the court reporter . . . makes a verbatim record of the following: . . . opinions and orders dictated by the court and other matters as may be prescribed by the court." Under the mandate of the Article 1, § 20 of the Michigan Constitution, it has been provided that: "***In every criminal prosecution . . . an appeal by an accused who pleads . . . nolo contendere shall be by leave of the court . . .***" (Emphasis supplied.)

court intentionally for oppressive reasons had failed to enter its $200.00 sentence into the record in breach of its own promulgated MCR 6.427—the ground based on which the Michigan Court of Appeals had dismissed the Petitioner's appeal (APPENDICES B & C)—rather than compelling the trial court to enter such order, it violated the Petitioner's constitutional rights in its capriciously denying his meritorious application to appeal and motion to compel, and thereby it failed to compel the trial court to enter its said order, and in so doing it unconstitutionally denied the Petitioner an opportunity to establish his absolute innocence of any wrongdoing.

## CONCLUSION

Wherefore, for all the grounds set forth herein above, the Petitioner, while fervently appealing to the sense of decency and judicial integrity of this Court, respectfully requests that it grant his *Petition for a Writ of Certiorari*, as such a granting would be deemed just and proper in good conscience, and as it would constitute the first step in righting this outrageously egregious and scandalously un-American wrong, and as this Court, itself, again and again has reiterated the paramount significance of the fundamental principles of the law, particularly those enshrined in the federal Constitution, of which the Petitioner as a wretched victim of various heinous crimes has been repugnantly and unconstitutionally denied by the Michigan state courts, particularly by the state court of last resort, whose appalling conduct in the case at hand amounts

to dereliction of its judicial duties and accountabilities.

Respectfully submitted,

By:

David D. Aslani (In Pro Per)
P.O. Box 437
St. Clair Shores, MI 48080-0437

Dated: September 20, 2008.

APPENDIX A

# Order

Michigan Supreme Court

April 28, 2008

Lansing, Michigan

135824

Clifford W. Taylor,
Chief Justice
Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 135824
COA: 280905
Ingham CC: 05-000471-FH

DAVID D. ASLANI,
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the October 18, 2007 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

SEAL OF THE MICHIGN
SUPREME COURT LANSING

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 28, 2008
Date

s/ Corbin A. Davis
Clerk

APPENDIX B

## Court of Appeals, State of Michigan

# ORDER

People of MI v David Aslani
Docket No. 280905
LC No. 05-000471-FH

William B. Murphy
Presiding Judge

Kathleen Jansen

Donald S. Owens
Judges

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The Court, acting under MCR 7.203(F)(2), orders that the motion for reconsideration is DENIED.

s/ William B. Murphy
Presiding Judge

(Seal) COURT OF APPEALS OF
THE STATE OF MICHIGAN * * 1965 * *

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

DEC 19 2007
Date

s/ Sandra Schultz Mengel
Chief Clerk

APPENDIX C

# IN THE MICHIGAN COURT OF APPEALS
# ORDER

Re: People of MI v David S [sic] Aslani
Docket No. 280905
L.C. No. 05-000471-FH

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The application for leave to appeal and motion to compel are DISMISSED for lack of jurisdiction because the lower court has not entered an order for which defendant can appeal. The Court has contacted the Ingham County Circuit Court and was told that no order was entered requiring defendant to pay $200.00. An appeal requires an order. See MCR 7.202(3), 7.203(B), and 7.205(A). The Court would note that if an order had been promptly entered following sentencing, this application for leave to appeal would have been dismissed as untimely filed since this application was filed more than a year after defendant was sentenced.

(Seal) COURT OF APPEALS OF
THE STATE OF MICHIGAN * * 1965 * *

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 18 2007 — Date

s/ Sandra Schultz Mengel — Chief Clerk

## APPENDIX D

## AMENDMENT IV TO THE UNITED STATES CONSTITUTION

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## APPENDIX E

## AMENDMENT V TO THE UNITED STATES CONSTITUTION

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

## APPENDIX F

## AMENDMENT VI TO THE UNITED STATES CONSTITUTION

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

## APPENDIX G

## AMENDMENT VII TO THE UNITED STATES CONSTITUTION

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

## APPENDIX H

## AMENDMENT VIII TO THE UNITED STATES CONSTITUTION

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

## APPENDIX I

## SECTION 1 OF AMENDMENT XIV TO THE UNITED STATES CONSTITUTION

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

## APPENDIX J

## UNIVERSAL DECLARATION OF HUMAN RIGHTS

On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights the full text of which appears in the following pages. Following this historic act the Assembly called upon all Member countries to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories."

### PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of

the human family is the foundation of freedom, justice and peace in the world * * * *

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs,

whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 17

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

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(continuation)

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

## APPENDIX K

## CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights,

both of which provide that no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975 (resolution 3452 (XXX)),

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

## Part I

### Article 1

1. For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising

only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:

1. When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

2. When the alleged offender is a national of that State;

3. When the victim was a national of that State if that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and does not extradite him pursuant to article 8 to any of the States mentioned in Paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any

individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other person to compensation which may exist under national law.

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture or references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibit cruel, inhuman or degrading treatment or punishment or which relate to extradition or expulsion.